

Dee May
Executive Director
Federal Regulatory



1300 I Street N.W., Floor 400W
Washington, DC 20005

Phone 202 515-2529
Fax 202 336-7922
dolores.a.may@verizon.com

July 17, 2001

Ex Parte

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St., S.W. – Portals
Washington, DC 20554

RE: Bell Atlantic Corp. and GTE Corp., CC Docket No. 98-184

Dear Ms. Salas:

In response to requests from Ms. Attwood, Verizon is providing the enclosed. Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Dee May".

Enclosure

cc: T. Dale
C. Matthey
D. Attwood

Dee May
Executive Director
Federal Regulatory



1300 I Street N.W., Floor 400W
Washington, DC 20005

Phone 202 515-2529
Fax 202 336-7922
dolores.a.may@verizon.com

July 17, 2001

Ms. Dorothy Attwood
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW- Room 5C-450
Washington, D.C. 20554

RE: Merger Condition for Carrier-Carrier Performance Assurance Plan

Dear Ms. Attwood:

I am writing to request your concurrence that the comprehensive performance reporting and enforcement plan applicable to the former GTE service area in Ohio satisfies the merger condition requirement that permits Verizon to terminate the carrier-to-carrier performance plan described in the Bell Atlantic/GTE merger conditions for those service areas.¹ Verizon believes the Ohio Plan meets this requirement, and that there is no further need to report performance results there under the merger standards.

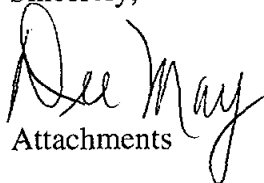
The Ohio Parity Performance Incentive Plan was approved by the Ohio PUC in Case No. 98-1398-TP-AMT, released April 26, 2001 (Attachment 1).² The measures, standards, and remedies, including both dollar amounts and methods of calculation, under the Ohio Plan are identical to the Merger Condition Plan in all material ways. There is one difference – the Ohio Plan directs that payments be placed in an escrow account, with distribution to be determined by the Ohio PUC, rather than being paid to the US Treasury. Because the Ohio Plan matches the Merger Condition Plan with respect to the measures, standards and remedies, it must be viewed as comprehensive.

¹ *GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control, App. D, ¶38, (rel. June 16, 2000) (hereinafter Merger Conditions).*

² On May 25, 2001, Verizon sought rehearing of one aspect of the PUC's order that created another difference between the Ohio Plan and the Merger Condition Plan. That part of the order required in selected instances that Verizon use service benchmarks consistent with the state retail performance standards, rather than apply a parity with retail performance standard. The Ohio PUC has stayed that portion of its order. See Attachment 2.

As required, Verizon is filing this notice with the Secretary of the Commission. Please do not hesitate to call me if you have any questions.

Sincerely,


Attachments

cc: C. Matthey
T. Dale

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application of Bell)
Atlantic Corporation and GTE Corporation) Case No. 98-1398-TP-AMT
for Consent and Approval of a Change in)
Control.)

ENTRY

The Commission finds:

- (1) Pursuant to the Commission's February 10, 2000 Opinion and Order issued in this proceeding, Verizon North Inc. (Verizon North) initiated three different collaborative efforts to address performance measures and remedy plans related to operation support systems (OSS): (1) OSS/Amended Joint Partial Settlement Agreement (AJPSA), (2) OSS/Parity Incentive Collaborative, and (3) OSS/Ohio-Specific Collaborative.
- (2) The OSS/Parity Incentive Collaborative was formed for the purpose of addressing the conditions required in a parity performance incentive program. Members of the collaborative include competitive local exchange carriers (CLECs) certified to provide service in Verizon North's Ohio service territory, all CLECs with pending applications to provide service in Verizon North's Ohio service territory, Ohio Consumers' Counsel (OCC), and Commission staff (staff).

On August 30, 2000, the OSS/Parity Incentive Collaborative filed its report and recommendation with the Commission. Specifically, the collaborative recommended the adoption of the Federal Communications Commission (FCC) approved parity performance incentive remedy plan as an interim starting point subject to specific Ohio modifications. These changes would include a process for ultimately identifying the appropriate recipient of payments for missed parity performance measures and the inclusion of flexible language allowing changes to or replacement of the interim plan. Relative to identifying the appropriate recipient of any payments, the collaborative has agreed that Verizon North should make all deposit payments into an interest bearing escrow account. The collaborative members should eventually petition the Commission for a ruling on the actual distribution of the escrow funds.

The collaborative committed to establishing periodic reviews of the interim parity performance incentive plan to assess the need for change or replacement. These reviews will occur at least every three months and will take into account changes in the competitive landscape of Verizon North's Ohio service

territory. Once conditions warrant, as dictated by these periodic reviews, the parties will petition the Commission for a ruling on the disbursement of the escrow account funds.

- (3) The Commission finds that the FCC parity model should be adopted with the following modifications. First, all the money related to OSS violations in Ohio should be deposited in an interest bearing escrow account rather than being made payable to the U.S. Department of the Treasury. Second, by the 15th of each month, Verizon North should issue monthly OSS performance reports for the preceding month. These reports should be posted to Verizon North's Ohio OSS website. Third, the collaborative should conduct a quarterly review to assess whether the participants wish to continue with the interim model. Once conditions warrant, as defined by the collaborative participants in the periodic reviews, the collaborative should petition the Commission for a ruling on the specific distribution of the escrow account funds.
- (4) Pursuant to the Commission's February 10, 2000 Opinion and Order in this proceeding, the Commission directed that a lifeline collaborative be formed consisting of Verizon North, OCC, staff, and the Edgemont Neighborhood Coalition (Edgemont). The purpose of this collaborative was to discuss the most effective manner to maximize the potential for increased subscribership in GTE's lifeline program in light of the \$1.5 million commitment to develop an enhanced lifeline program over three years following the merger closure.
- (5) On September 14, 2000, Edgemont and OCC filed a motion requesting that the Commission order Verizon North to offer both the current lifeline plan¹ and an enhanced lifeline plan to eligible residential consumers in Ohio. Edgemont and OCC believe that the offering of both plans is required by the FCC Universal Service Order, *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, rel. May 8, 1997, at para. 186, and would be consistent with the FCC Merger Order, *In the Matter of the Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer of Control*, CC Docket No. 98-184, Memorandum Opinion and Order (June 16, 2000).

Specifically, the movants contend that the FCC requires all incumbent local exchange companies to offer a broad-based lifeline plan that does not limit customers' access to vertical

¹ The current lifeline assistance program provides eligible residential consumers with a \$5.25-\$6.10 discount off the monthly bill and allows the consumer to enroll for vertical services. The proposed enhanced plan would offer eligible consumers a \$10.20 discount off their monthly bill, but the consumer would not be eligible to enroll for any vertical services.

services. Under the FCC Merger Order, movants state that Verizon North is required to offer a low-income lifeline universal service plan that is modeled after the Ohio Universal Service Assistance (USA) plan offered by Ameritech. FCC Merger Order at 154. Edgemont and OCC represent that the USA plan offers both the \$6.10 plan, as well as the \$10.20 plan to residential consumers and allows a residential consumer to select the option that best suits the consumers needs.

As further support for their position, Edgemont and OCC interpret the FCC Merger Order as requiring that if a state already has a lifeline plan and then decides to offer the enhanced plan, subscribers should be upgraded automatically to the new plan when the upgrade will improve the customer's situation. Since Verizon North's proposed plan will adversely affect those lifeline customers currently subscribing to vertical services, movants believe that both plans should remain in effect. As a result, Edgemont and OCC conclude that the resulting outcome will be contrary to the Commission's stated desire to maximize the potential for increased subscribership in Verizon North's lifeline program. Opinion and Order at 34.

Finally, Edgemont and OCC point out that if Verizon North were allowed to offer only its restrictive enhanced lifeline program, it would be the only incumbent local exchange company not to offer the broader-based plan.

- (6) Contrary to the position stated by Edgemont and OCC, Verizon North, in its memorandum contra, states that there is no order of the Ohio Commission or the FCC that requires Verizon North to offer both lifeline plans. Verizon North represents that it offered the enhanced lifeline plan under the belief that it would replace the current plan, not supplement it. Finally, Verizon North asserts that movants' motion exceeds the purpose of the Lifeline Collaborative inasmuch as the collaborative was limited to the issue of deployment, and not development, of the lifeline program.
- (7) The Commission finds that Edgemont and OCC's motion should be denied. Upon reviewing the relevant Commission and FCC orders, the Commission rejects the movants' belief that these orders stand for the proposition that Verizon North must offer both its existing and proposed enhanced lifeline programs. Specifically, the Commission recognizes that the FCC Merger Order simply provided that "Bell Atlantic/GTE will offer a low-income lifeline universal service plan modeled after the Ohio Universal Assistance (USA) lifeline plan...." (emphasis added). The FCC further clarified that "[s]pecifically, Bell Atlantic/GTE will offer to provide a

discount equal to the price of basic residential measured-rate service, excluding local usage, in each state, up to a maximum discount of \$10.20 per month (including all federal, state and company contributions)." The FCC further rejected a request for the removal of restrictions related to the purchase of optional services. FCC Merger Order at para. 327. Thus, it is clear that the FCC did not specifically require the inclusion of vertical services as part of its lifeline-related merger approval conditions. The Commission also notes that the FCC did not include vertical services as part of the list of services to be included as part of the lifeline program. FCC Universal Service Order at para. 384. Although movants may be correct that other incumbent local exchange companies currently offer a basic and enhanced lifeline program, these outcomes evolved in the context of alternative regulation plans approved by the Commission and not as a result of a specific regulatory requirement that two lifeline programs be offered.

Finally, the Commission continues to retain jurisdiction to consider the reasonableness of both the development and deployment of Verizon North's lifeline program.

- (8) On November 20, 2000, OCC and Edgemont filed a motion for clarification regarding the funding level for the commitment to education as addressed in the Commission's Opinion and Order at 35, 36. Movants note that, as part of its merger approval, the Commission required the formation of a collaborative for the purpose of identifying a project to satisfy Verizon North's commitment to education. *Id.*

OCC and Edgemont represent that, while the collaborative concluded that a project that included computer centers with a focus on a literacy initiative would best meet the needs of the community and the Commission's requirements, a dispute exists relative to the specific amount of funding to be provided by Verizon North.

Specifically, movants represent that Verizon North has stated that, based on its prior level of funding for the Ohio University Telecommunity Distance Learning Project in Appalachia, the requisite funding level should be approximately \$143,000 per year for three years. OCC and Edgemont questions the validity of this estimate and do not believe that this level of funding satisfies the Commission's directive that, "at a bare minimum, the joint applicants should commit to identify another project in its territory addressing a commitment to education (schools and distance learning/computer centers)." *Id.* at 35-36. The joint parties believe that the focus should be on pursuing a program that achieves a similar benefit as the Ohio University

Telecommunity Distance Learning Project and not simply a commitment where the spending level is the same.

In lieu of Verizon North's proposal, movants recommend a total funding level of \$855,000 for a three-year period encompassing a three-part proposal that would include funding literacy programs in a combination of known existing computer technology centers, unidentified existing computer centers, and new computer centers.

- (9) As stated in its memorandum contra, Verizon North interprets the Commission's Opinion and Order to require: (1) the identification of a new project in lieu of the Ohio University/Telecommunity Distance Learning Project, and (2) an investment amount similar to that described in the original Ohio University three-year commitment, \$1.0 million over seven years. Therefore, Verizon North opines that the collaborative was not charged with the task of considering funding levels. Verizon North contends that the Opinion and Order requires no clarification inasmuch as the Commission directed a specific investment amount that is well below that requested by the joint parties.
- (10) The Commission finds that OCC's and Edgemont's motion should be denied. The Commission concludes that Verizon North's offer of approximately \$143,000/year for three years specific to computer centers with a focus on a literacy initiative comports with the objectives stated in the Commission's Opinion and Order. The proposals endorsed by the joint parties motion, while laudable, extend beyond the Commission's stated intent that Verizon North should contribute funding in an amount similar to that described in the original Ohio University three-year commitment.
- (11) The OSS/Ohio-Specific Collaborative was formed to address any Ohio-specific CLEC proposed changes to Verizon's OSS standards previously adopted by the AJPSA entered into in California.

On October 27, 2000, as amended on December 8, 2000, the Ohio OSS collaborative responsible for identifying any OSS changes specific to Ohio filed its report with the Commission. The collaborative participants stated that the AJPSA measures do not conflict with or contradict the requirements set forth in the Minimum Telephone Service Standards (MTSS).

However, the collaborative participants identified two areas of disagreement for which the CLECs request the opportunity to submit briefs on an expedited basis.²

The first area of disagreement concerns a proposal by the CLECs³ that introduces changes to certain measures by applying a "parity with a floor" standard. The CLECs contend that, periodically, Verizon North's own performance data for Ohio reflects that it provides inferior service to both its wholesale and retail customers in violation of the MTSS. Specifically, the CLECs allege that, based on data reported by Verizon North to the FCC for the month of August 2000, Verizon North has missed approximately 49 percent of its committed due dates for "plain old telephone service" (POTS) installation. In addition to being a violation of the Ohio MTSS, the CLECs are concerned that such results are of little value as a performance metric if a parity standard is applied. The CLECs postulate that regulators should promote choice between good quality, not equally poor quality service providers. Therefore, the CLECs propose that a "parity with a floor" plan be put in place as a safeguard where parity is used as a performance standard.

The second area of disagreement concerns a contention by certain CLECs⁴ that Verizon North service representatives have been improperly rejecting CLEC orders that are actually correct as written. Additionally, the CLECs allege that Verizon North's service representatives, prior to all of the errors being detected, reject orders containing multiple errors. As a result, the CLECs represent that they incur unnecessary delays in order processing and assignment of due dates, as well as loss of customer credibility each time that an order is rejected improperly.

- (12) On October 27, 2000, as amended on January 12, 2001, Verizon North stated its position with respect to the two identified areas of disagreement.

With respect to the CLECs' proposed parity with a floor plan, Verizon North opines that both the Telecommunications Act of 1996 (herein the 1996 Act) and Commission's Local Service

² Although the CLECs also seek to employ a mechanism to provide automatic credits for violations of the MTSS that are attributable to the failure of Verizon North to provide adequate OSS, the collaborative agreed that this issue is outside the scope of this collaborative and is best addressed in the separate pending MTSS proceeding, Case No. 00-1265-TP-ORD.

³ The stated position is supported by Data-Telecom Corp, WorldCom, Inc. (WorldCom), AT&T Communications of Ohio, Inc. (AT&T), McLeodUSA Telecommunications Services, Inc. (McLeodUSA), and Time Warner Telecom.

⁴ The stated position is supported by Data-Telecom Corp, WorldCom, AT&T, and Time Warner Telecom.

Guidelines recognize parity as the appropriate standard for service provided by incumbent local exchange companies to CLECs. Therefore, in order to not provide a local service provider with an unfair competitive advantage, Verizon North rejects a quality of service standard for competitive local exchange providers which exceeds parity. Verizon North believes that its position is consistent with the U.S. Court of Appeals Eighth Circuit's decisions in *Iowa Utilities Board v. Federal Communications Commission*, (1997) 120 F.3d. 753, 812, 813 and *Iowa Utilities Board v. Federal Communications Commission* (2000) 219 F.3d 744. Further, Verizon North alleges that the CLECs' proposal is neither specific to Ohio nor specific to Verizon North and, therefore, exceeds the scope of the OSS/Ohio-Specific Collaborative.

With respect to the CLECs' proposed measurements for erroneously and improperly rejected orders, Verizon North believes that the issues identified by the CLECs regarding improper manual rejections are minimal in scope and, therefore, are not worth the effort of measuring. Further, Verizon North avers that improper manual rejections do not necessarily impact the commitment date but, rather, Verizon North's internal procedures instruct service representatives to secure the original requested due date based on available provisioning resources. Verizon North identifies a number of technical and resource burdens that would result from the implementation of the specific measurements requested by the CLECs. Verizon North also believes that if remedies are ultimately appropriate, these should be addressed in the context of the OSS/Parity Incentive Collaborative. Finally, Verizon North believes that the level of manual errors will decline as the level of OSS mechanization increases.

- (13) With respect to the CLECs' proposed parity with a floor plan, the Commission finds that, for those measurements that are directly tied to monetary damage provision, parity with a corresponding Ohio MTSS floor is the appropriate model to be adopted. As subsequent measurements become associated with monetary damage provision, they too should be incorporated into the parity with a MTSS floor model. The Commission believes that the MTSS will provide a sufficient benchmark to assure that CLECs receive an acceptable standard of service.

With respect to the CLECs' concerns regarding unnecessary delays in order processing and assignment of due dates resulting from Verizon North's improper rejection of CLEC orders that are actually correct as written, the Commission agrees that CLECs should not be subjected to additional delays

for which they have no control. To this point, Verizon North, as stated above, has acknowledged internal procedures that instruct service representatives to secure the original requested due date based on available provisioning resources. The Commission believes that Verizon North's business rules should be amended to incorporate this internal policy. Within 30 days of this entry, Verizon North should file in this docket, the business rules that comport with this representation. Copies should be provided to members of the Ohio OSS collaboratives.

Additionally, the Commission believes that rather than incurring the additional expense of modifying Verizon North's OSS to create a separate field in order to establish performance measure for improperly rejected orders, it is reasonable for Verizon North, as it proposed, to create a separate mechanism that reflects the percentage of rejects found to be in error. This reporting and record keeping could occur through written notification between the parties without the need for incurring additional expense to modify Verizon North's OSS. With respect to specific remedies to be applied regarding any specific identified violations, the Commission believes that this issue should be addressed through the Parity Performance Incentive Collaborative. The aforementioned record keeping directive will help facilitate the potential for the application of a retroactive remedy. The record keeping directive will also allow the Commission to ultimately review whether Verizon North is abusing the flexibility the Commission has provided by not establishing a blanket requirement that all improperly rejected orders must secure the originally scheduled due date without exception.

With respect to the CLECs' request that orders containing multiple errors are rejected by Verizon service representatives prior to all of the errors being detected, the Commission notes that Verizon North represented that its standard procedure is to review the entire local service request in order to capture and provide multiple error information to CLECs on the initial reject cycle. The Commission believes that Verizon North's business rules should be amended to incorporate this internal policy. Within 30 days of this entry, Verizon North should file the business rules in this docket which comport with this representation. Copies should be provided to members of the Ohio OSS collaboratives. The Commission recognizes that this process is still subject to some degree of error inasmuch as the correction of one error may result in a subsequent inconsistency. Rather than incurring the additional expense of modifying Verizon North's OSS to create a separate field to track rejected orders containing multiple errors which were not

identified at first inspection, the Commission believes that this can be monitored through written notification between the parties without the need for incurring additional expense to modify Verizon North's OSS. The record keeping directive will also allow the Commission to ultimate review whether Verizon North's procedures with respect to this issue are being implemented in a satisfactory manner.

It is, therefore,

ORDERED, That the FCC's parity performance incentive plan model be approved subject to the Ohio-specific modifications discussed in Finding (3) above. It is, further,

ORDERED, That OCC and Edgemont's motion regarding the requisite lifeline plans is denied in accordance with Finding (7). It is, further,

ORDERED, That OCC and Edgemont's motion for clarification is denied in accordance with Finding (10). It is, further,

ORDERED, That the disputed OSS issues are resolved in accordance with Finding (13). It is, further,

ORDERED, That Verizon North amend its business rules and file the supporting documentation in accordance with Finding (13). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Ronda Hartman Fergus

Judith A. Jones

Donald L. Mason

Clarence D. Rogers, Jr.

JSA:geb

Entered in the Journal
April 26, 2001

Gary E. Vigorito
Secretary

Signed by Commissioners
Schriber
Fergus
Jones
Mason
Rogers

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application of Bell)
Atlantic Corporation and GTE Corporation) Case No. 98-1398-TP-AMT
for Consent and Approval of a Change in)
Control.)

ENTRY ON REHEARING

The Commission finds:

- (1) On April 25, 2001, the Commission issued an entry addressing a number of issues including (1) the joint motion of the Ohio Consumers' Counsel (OCC) and the Edgemont Neighborhood Coalition (Edgemont) requesting that the Commission order Verizon North Inc. (Verizon) to offer both its current lifeline plan and an enhanced plan¹; (2) the joint motion of OCC and Edgemont for a clarification regarding the funding level for the commitment to education as addressed in the Commission's Opinion and Order in this case; and (3) disputes raised by competitive local exchange members of the OSS/Ohio-Specific Collaborative.
- (2) On May 25, 2001, OCC and Edgemont jointly filed an application for rehearing relative to the Commission's determination that the relevant Commission and Federal Communication Commission (FCC) decisions do not stand for the proposition that Verizon must offer both its existing and proposed enhanced lifeline programs. As part of their arguments, OCC and Edgemont state that even if the FCC's June 16, 2000 merger order in CC Docket No. 98-184, *In the Matter of the Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer of Control*, does not explicitly require the offering of both lifeline programs, such a determination should not control the Commission's decision in this case.

Also on May 25, 2001, Verizon filed an application for rehearing regarding the Commission's determinations that for those measurements that are directly tied to a monetary provision, parity with a corresponding Ohio Minimum Telephone Service Standard (MTSS) floor is the appropriate model to be adopted. Among other arguments, Verizon contends that the Commission's order is unlawful and unreasonable and a plain violation of the 1996 Telecommunications Act, as it overtly favors Verizon's wholesale customers over Verizon's retail customers.

¹ The current lifeline assistance program provides eligible residential consumers with a \$5.25-\$6.10 discount off the monthly bill and allows the consumer to enroll for vertical services. The proposed enhanced plan would offer eligible consumers a \$10.20 discount off their monthly bill, but the consumer would not be eligible to enroll for any vertical services.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Date Processed 6-21-01
Technician JEC

Verizon also asserts that the Commission's April 25, 2001 entry unreasonably requires it to conduct manual studies of rejected orders for an indefinite period of time. Verizon submits that the indefinite record keeping resulting from the Commission's directives will be administratively burdensome. Instead, Verizon proposes to conduct a special study for a six-month time period beginning with data reported for June 2001.

Finally, Verizon requests that the Commission stay further implementation of the Commission's entry to the extent that the entry is inconsistent with the relief requested by this application for rehearing.

- (3) On June 4, 2001, Verizon and AT&T Communications of Ohio, Inc., filed their respective memorandum contra relative to the submitted applications for rehearing.
- (4) Section 4903.10, Revised Code, states that any party to a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission, within 30 days of the entry of the order upon the Commission's journal.
- (5) The Commission finds that the submitted applications for rehearing should be granted for the limited purpose of allowing the Commission additional time in which to consider the issues raised on rehearing. The implementation of "parity with a corresponding Ohio MTSS floor", as discussed in the Commission's April 25, 2001 Entry, is stayed until ordered otherwise.

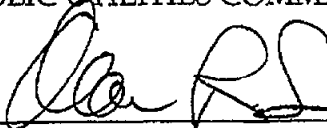
It is, therefore,

ORDERED, That the applications for rehearing filed by OCC/Edgemont and Verizon are granted for the limited purpose of allowing the Commission additional time in which to consider the issues raised on rehearing. It is, further,

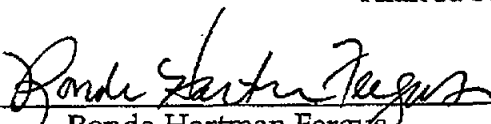
ORDERED, That the parity with a MTSS floor model is stayed as directed in Finding (5). It is, further,

ORDERED, That a copy of this entry on rehearing be served upon all parties of record.

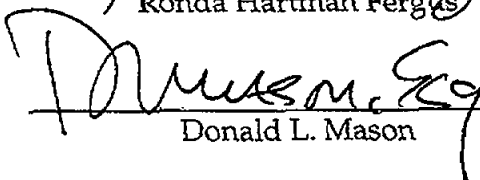
THE PUBLIC UTILITIES COMMISSION OF OHIO



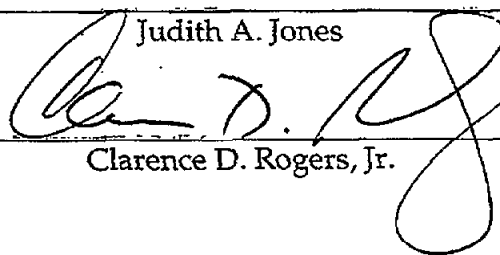
Alan R. Schriber, Chairman



Ronda Hartman Fergus



Donald L. Mason



Judith A. Jones

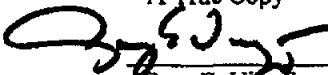
Clarence D. Rogers, Jr.

JSA;geb

Entered in the Journal

JUN 21 2001

A True Copy



Gary E. Vigorito
Secretary